

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

TIMOTHY RAY SADLER,

Petitioner,

vs.

STATE OF MONTANA,

Respondents.

CV 20-08-H-BMM-JTJ

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS**

Petitioner Timothy Ray Sadler (“Sadler”) filed this action under 28 U.S.C. § 2254. (Doc. 1.) Sadler is a state prisoner proceeding pro se. United States Magistrate Judge John Johnston issued Findings and Recommendations on February 11, 2020. (Doc. 3.) Judge Johnston noted that a state prisoner must exhaust his state court remedies before petitioning for a writ of habeas corpus in federal court. (*Id.* at 3 (citing *Baldwin v. Reese*, 541 U.S. 27, 29 (2004).) Judge Johnston concluded that Sadler had not yet exhausted his available state court remedies. (Doc. 3 at 4.) Judge Johnston recommended that the Court dismiss without prejudice Sadler’s Petition. (*Id.* at 4-5.) Sadler may return to federal court if and when he fully exhausts the claims relative to his current custody. (*Id.* at 4-5.)

Judge Johnston notified Sadler that he had 14 days to object to Judge Johnston's Recommendations. (Doc. 3 at 6.) Sadler has not filed objections to the Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none, **IT IS ORDERED** that:

1. Judge Johnston's Findings and Recommendations (Doc. 3) are **ADOPTED IN FULL**.
2. Sadler's Petition (Doc. 1) is **DISMISSED** without prejudice as unexhausted.
3. The Clerk of Court is directed to enter judgment of dismissal.
4. A certificate of appealability is **DENIED**. The Clerk of Court is directed to have the docket reflect that the Court certifies, pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure, that any appeal of this decision would not be taken in good faith. Sadler has not yet made a substantial showing that he was

deprived of a constitutional right. Reasonable jurists would find no basis to encourage further proceedings at this time.

DATED this 26th day of February, 2019.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Brian Morris
United States District Court Judge